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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,923	01/21/2005	Holger Von Hayn	PC10480US	6178
23122	7590	04/20/2006	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			LESLIE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3745	
DATE MAILED: 04/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/521,923

Applicant(s)

VON HAYN ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24-48 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/21/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “weight” fastened to the closing element (claim 36) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because it exceeds the limit of 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 24 and 37 are objected to because of the following informalities:

Claim 24, Line 1, “on” should be --one--,

Claim 24, Line 3, “the pressure” should be --a pressure--,

Claim 37, Line 1, “in particular” should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites, “means are provided which maintain” in line 9. It appears applicant intends to claim the limitations functionally by invoking 112 6th paragraph, however in order to invoke 112 6th paragraph the “means for” language format must be used.

Claim 37 provides for the use of the master cylinder of claim 24 for filling a brake system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claim 37 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 43 and 44 are indefinite because the embodiment recited in claims 43 and 44 conflicts with the embodiment of parent claim 25. Claim 25 is generally directed to the embodiments of Figs. 1-19, while claims 43 and 44 are generally directed to that shown in figures 21 and 22.

Claims 45 and 47 are indefinite because the embodiment recited in claims 45 and 47 conflicts with the embodiment of parent claim 25. Claim 25 is generally directed to the embodiments of Figs. 1-19, while claims 45 and 47 are directed to that shown in Fig. 23.

Claims 46 and 48 are indefinite because the embodiment recited in claims 46 and 48 conflicts with the embodiment of parent claim 25. Claim 25 is generally directed to the embodiments of Figs. 1-19, while claims 46 and 48 are directed to that shown in Fig. 24.

Claims 25-36 and 38-42 are rejected due to their dependence from claim 24.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al (4773224).

Tanaka et al discloses a master cylinder (1) for a hydraulic brake system with at least one pressure chamber provided in a housing of the master cylinder and at least one housing bore (25) for accommodating a pressure fluid reservoir (20), a valve (34) with a closing element being provided which due to a pressure difference prevailing between the pressure chamber and the pressure fluid reservoir can be moved into an opening position or a closing position, the valve in its opening position allowing a pressure fluid flow from the pressure fluid reservoir into the pressure chamber and in its closing position throttling or preventing a pressure fluid flow in the opposite direction to the pressure fluid flow from the pressure chamber into the pressure fluid reservoir, wherein means for maintain (39) the closing element in the opening position when it is acted upon by a closing pressure difference due to an evacuation for the purpose of vacuum filling of the brake system, and allow the closing element to move in the closing position when the brake is actuated.

Allowable Subject Matter

Claims 25-48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 6912851, 6637201, and 6405534 each disclose master cylinders having valves between the reservoir and the pressure chamber.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML
April 17, 2006


Michael Leslie
Patent Examiner
AU 3745